

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Claims 1-37 are now pending. Of those claims, claims 4-5, 7, 12, 16-17 and 19-24 have been withdrawn from consideration as directed to non-elected species.

The Examiner has taken the position that the Information Disclosure Statement filed March 5, 2004 does not comply with 37 CFR 1.98(a)(2), but it is not clear why the Examiner found non-compliance. Therefore, reconsideration is respectfully requested. The "Other Document" cited with the Information Disclosure Statement of March 5, 2004 was cited in the European Search Report dated November 7, 2003, a copy of which was attached to the March 5, 2004 Information Disclosure Statement. On information and belief, the Patent Abstracts of Japan document was submitted with the March 5, 2004 Information Disclosure Statement (copy of postcard receipt and Patent Abstract document attached) and was exactly the document supplied by the European Patent Office with the November 2, 2003 Search Report. Finally, the listing of that Patent Abstracts of Japan provided on the Form PTO-1449 was exactly the same content as provided by the European Patent Office in the European Search Report. It is respectfully submitted that for well in excess of a decade, the undersigned has been citing to the U.S. Patent Office Patent Abstracts of Japan documents cited by the European Patent Office by listing them as an "Other Document" and supplying the single page provided by the European Patent Office. If the Examiner believes that the Patent Abstracts of Japan should be listed in a manner other than the way in which it was listed on the European Search Report and on applicant's Form PTO-1449, then it is respectfully requested that the Examiner list the document on a PTO 892. It is respectfully submitted, however, that under these circumstances it is wholly inappropriate to refuse to consider a cited and supplied document. Thus, the document was timely supplied to the U.S. Patent Office before examination on the merits of this

application and an effort was made to properly list the same consistent with the manner in which it was listed by the European Patent Office. Therefore, applicant is entitled as a matter of right to have that document fully considered by the Examiner. It is therefore respectfully requested that the Examiner's refusal to consider the Patent Abstracts of Japan cited March 5, 2004 be reconsidered and that the document be considered forthwith.

Another copy of the partly initialed Form PTO-1449 is attached and it is respectfully requested that the Examiner now acknowledge consideration of the Patent Abstracts of Japan submitted on March 4, 2005 with the Information Disclosure Statement of the same date. If the Examiner believes the listing should be modified or corrected then it is respectfully requested that the Examiner annotate the PTO-1449.

Claims 13-15 and 36 were rejected under 35 USC 102(e) as being anticipated by Aoki. Applicant respectfully traverses this rejection.

Anticipation under Section 102 of the Patent Act requires that a prior art reference disclose every claim element of the claimed invention. See, e.g., Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1574 (Fed. Cir. 1986). While other references may be used to interpret an allegedly anticipating reference, anticipation must be found in a single reference. See, e.g., Studiengesellschaft Kohle, G.m.b.H. v. Dart Indus., Inc., 726 F.2d 724, 726-27 (Fed. Cir. 1984). The absence of any element of the claim from the cited reference negates anticipation. See, e.g., Structural Rubber Prods. Co. v. Park Rubber Co., 749 F.2d 707, 715 (Fed. Cir. 1984). Anticipation is not shown even if the differences between the claims and the prior art reference are insubstantial and the missing elements could be supplied by the knowledge of one skilled in the art. See, e.g., Structural Rubber Prods., 749 F.2d at 716-17.

Claim 13 has been amended hereinabove to now recite more specifically that a portion of the injection hole plate located radially outward of the thick wall portion is

welded to one of the valve body and the nozzle holder. Aoki et al does not teach or suggest the foregoing feature of claim 13. There is only one reference to welding in Aoki: it is said that valve body 29 is fixed to the inner wall of cylindrical member 14 by welding. More particularly, valve body 29 is press fit or inserted into magnetic cylindrical portion 14c. The valve body 29 and the magnetic cylindrical portion 14c are then welded throughout the whole circumference from the outside (column 5, lines 45-52). There is no other disclosure in Aoki regarding welding. It is said that the cylindrical member 50 is attached to the tip of injector 1 to protect the orifice plate 28 and cylindrical member 50 also extends downstream from orifice plate 28 to assist the formation of a fuel spray. Furthermore, it is said that the cylindrical portion 50 has a mounting portion 50D which is mounted to the outer periphery of cylindrical member 14, so that the mounting of cylindrical portion 50 would apparently secure the orifice plate 28. However, there is no mention of welding in this regard, and clearly there is no disclosure of welding the orifice plate as provided in applicant's claim 13.

Accordingly, claim 13 is not anticipated by, nor obvious from Aoki et al.

Claims 1-3, 6, 8-11, 18 and 35 were rejected under 35 USC 103(a) as being obvious from Aoki in view of Holzgreffe et al. Applicant respectfully traverses this rejection.


Claim 1 has been amended hereinabove to recite more specifically that a portion of the injection hole plate located radially outward of the thick wall portion is welded to one of the valve body and the nozzle holder. As noted above with respect to Aoki, Aoki does not teach or suggest welding an injection hole plate to the valve body or the nozzle holder. Holzgreffe also fails to teach or suggest the foregoing feature of claim 1. In this regard, Holzgreffe discloses an orifice plate 23 that is inserted into an orifice-plate carrier 21 and the valve seat body 16 and orifice-plate carrier 21 are connected by a circumferential weld seam 25 formed by means of a laser. Holzgreffe discloses that by using an orifice-plate carrier 21 and welding the carrier to the valve seat body, there is

no risk of undesired deformation of the central region of the orifice-plate carrier 21 or the orifice plate 23 disposed upstream of it. In the region of retaining edge 26, orifice-plate carrier 21 is connected to the wall of the longitudinal orifice 3 in the valve-seat carrier 1 by a circumferential second weld seam 30. Thus, both Aoki and Helzgreffe teach mounting an orifice plate using an orifice plate carrier that is connected to the valve seat body at the side. Accordingly, Aoki and Helzgreffe teach away from and certainly do not anticipate nor render obvious the combination recited in applicant's independent claim 1. For these reasons it is respectfully submitted that claim 1 is patentable as not having been anticipated by nor obvious from Aoki taken alone or in combination with Helzgreffe. The claims that depend directly or indirectly from claim 1 are submitted to be patentable for the same reasons.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Michelle N. Lester
Reg. No. 32,331

MNL:slj
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100